

Organizations that have secured tax exemption identification numbers from the Department are exempt from Use Tax when purchasing tangible personal property for use in furtherance of organizational purposes. See 86 Ill. Adm. Code 130.2005 and 130.2007. (This is a GIL.)

January 29, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated December 4, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are an Illinois not for profit corporation and have been granted exemption from federal income taxes under Internal Revenue Code Section 501(c)(3). We operate a medical and dental clinic for low income patients, and our primary purpose is relief of the sick. Additionally, we operate and maintain a pharmacy exclusively for the low income patients of the clinic.

We are requesting both a ruling that our sales are exempt under Illinois Administrative Code Seciton 130.2005(b)(1). That regulation speaks of non-profit hospitals whose primary purpose is relief of the sick. While we are not a hospital, we are a not for profit organization whose primary purpose is relief of the sick.

We already have an active exemption number, ####, which, as we understand it, only serves to prove we are exempt on our purchases. The requested ruling concerns our pharmacy sales to patients of the clinic.

Enclosed please find the following:

- >Articles of Incorporation
- >By-Laws
- >A copy of our Internal Revenue Service exemption letter
- >Our most recent audited financial statement

If you have any questions, please contact us between 8:30 a.m. and 5:00 p.m. on weekdays.

Some health care organizations (e.g., hospitals) that make application to the Department are determined to be exclusively organized and operated for charitable purposes. These organizations receive a tax exemption identification number (an "E" number). Organizations that have secured tax exemption identification numbers from the Department are exempt from Use Tax when purchasing tangible personal property for use in furtherance of organizational purposes, and retailers do not incur Retailers' Occupation Tax on such sales. See 86 Ill. Adm. Code 130.2005 and 130.2007, enclosed.

Please note that even tax exempt hospitals and other exclusively charitable organizations incur sales tax liability on certain sales of tangible personal property. See, for example, 86 Ill. Adm. Code 130.2005(b)(1)(A).

Section 130.2005(b)(1) states as follows:

"1) Hospital Sales

- A) Nonprofit hospitals which qualify as exclusively charitable institutions are not taxable when selling food or medicine to their patients in connection with the furnishing of hospital service to them, nor on the operation of restaurant facilities which are conducted primarily for the benefit of the hospital's employees, and which are not open to the public. However, sales made in a hospital cafeteria which is open to the public will be taxable sales.
- B) In the case of hospitals which qualify as charitable institutions, such hospitals are not taxable when selling drugs to anyone because this is for the relief of the sick (which is the hospital's primary purpose) and so is "primarily for the purpose of" such hospitals, thus qualifying such transactions for tax exemption. However, a hospital or hospital auxiliary incurs Retailers' Occupation Tax liability when selling candy, chewing gum, tobacco products, razor blades and the like at retail even when such items are sold only to patients because (unlike food and medicine) these items are not necessary to the furnishing of hospital service, and they are competitive.
- C) The same distinctions apply to nonprofit sanitarium and nonprofit nursing homes when they qualify as exclusively charitable institutions."

This regulation would also be applicable to health care clinics that have received an E number from the Department.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk

Enc.